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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/522,670	06/08/2005	Wolfgang Kossl	566/43619	8601

23646 7590 03/09/2010  
BARNES & THORNBURG LLP  
750-17TH STREET NW  
SUITE 900  
WASHINGTON, DC 20006-4675

EXAMINER
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STRIMBU, GREGORY J

ART UNIT	PAPER NUMBER
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3634

NOTIFICATION DATE	DELIVERY MODE
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03/09/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

vrobertson@btlaw.com  
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<b>Office Action Summary</b>	<b>Application No.</b> 10/522,670	<b>Applicant(s)</b> KOSSL, WOLFGANG	
	<b>Examiner</b> Gregory J. Strimbu	<b>Art Unit</b> 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2010.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 February 2010 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2/23/10</u> .   | 6) <input type="checkbox"/> Other: _____                          |

It should first be noted that the applicant's comments concerning the finality of the previous office action were found persuasive. Therefore, the finality of the previous office action is withdrawn and the applicant's amendment of February 23, 2010 has been entered as a matter of right. However, the application is currently not allowable for the reasons set forth in the following office action.

### ***Drawings***

The drawing correction filed February 23, 2010 has been approved.

### ***Specification***

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

#### **Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.
  - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.

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- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

The disclosure is objected to because it is unclear what documents comprise the specification. Note that the applicant filed a document on January 28, 2005 which includes the language "AMENDED PAGE" throughout the document. It is unclear if said document was intended to be part of the specification. It is suggested that the applicant file a substitute specification to avoid confusion.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fink (US 6189265) in view of Weishar et al. (US 5083600) and Kramer (US 3202886).

Fink discloses a door actuator of rail vehicles comprising:

a spindle drive 12 and a freewheel 23, wherein the spindle drive has a spindle 12 that is connected with the freewheel 23 permitting rotation of the spindle in a direction corresponding to a closing direction of a door 1 and preventing the rotation of the

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spindle in a direction corresponding to an opening direction of the door (see column 4, lines 54-60),

a part of the freewheel 23 positioned away from the spindle being rotatably mounted but being releasably fixed with respect to a release device 25. Fink is silent concerning, *inter alia*, a contact pressure spring.

However, Weishar et al. discloses a door actuator of rail vehicles comprising:

a spindle drive 6 and a freewheel 16, wherein the spindle drive has a spindle 6 that is connected with the freewheel 16 permitting rotation of the spindle in a direction corresponding to a closing direction of a door;

a part of the freewheel 16 positioned away from the spindle being rotatably mounted but being releasably fixed with respect to a release device 19 by force of at least one contact pressure spring 24 in cooperation with a releasable coupling 20, 22, wherein the coupling 20, 22 is fixable in an open released position as shown in figure 5; and

wherein the releasable coupling is configured to operate by a linkage having a dead center position between a released position of the linkage as shown in figure 5 and a locked position of the linkage as shown in figure 3 and the linkage has a swiveling lever 33 which can be swiveled about a lever axis 34, wherein first arm 35 of the swiveling lever is connected to a drive device (not numbered, but comprising the chain as shown in figure 1), and a second arm 32 carries rollers 31 with an axis of rotation parallel to the lever axis as shown in figure 4, wherein the lever is configured to move a movable part 21 of the releasable coupling between the released and locked positions,

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and the dead-center position is reached when a connection plane between an axis of rotation of the rollers and the lever axis is parallel to the moving direction of the movable part of the releasable coupling;

the releasable coupling includes a toothed disc 21 (claim 5).

It would have been obvious to one of ordinary skill in the art to provide Fink with a releasable coupling, as taught by Weishar et al., to provide a simple construction (see column 1, line 66) and to increase the longevity of the clutch since the releasable coupling of Weishar et al. does not have friction discs to wear out.

Additionally, Kramer discloses a bidirectional lifting magnet driving device.

It would have been obvious to one of ordinary skill in the art to provide Fink with a bidirectional lifting magnet, as taught by Fort et al., to enable a user to remotely control the release device without having to continuously power the lifting magnet once it has been moved into an end position.

### ***Response to Arguments***

Applicant's arguments filed February 23, 2010 have been fully considered but they are not persuasive.

The applicant's argument that the combination of the teachings of Fink, Weishar et al., and Fort et al. fails to disclose the applicant's claimed invention is not persuasive. The applicant's argument that Weishar is operated by hand is not found persuasive because one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413,

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208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). The applicant's comments concerning Fort et al. are not persuasive due to the new grounds of rejection. The applicant's comment that one of ordinary skill in the art would not modify Weishar to include an electrical drive means is not persuasive because Weishar et al. is not being modified. Rather, the Fink is being modified by Weishar et al.

The applicant's claimed invention is not inventive. Fink discloses the applicant's claimed door actuator having a lock/brake preventing the door from being opened. However, Fink discloses a traditional disk clutch which is known to wear since the clutch disks eventually wear out. Weishar et al. solves the problem of disk wear by providing a releasable mechanical connection between a drive member and a driven member. Since both Fink and Weishar et al. are related to door operators, one of ordinary skill in the art would be motivated to provide Fink with the releasable mechanical connection of Weishar et al. to increase the longevity of the door actuator of Fink. Fink discloses a mechanism to manually operate the lock/brake. Since it is well known to motorize items that are manually operated, one of ordinary skill in the art would have been motivated to provide Fink with the bidirectional lifting magnet of Kramer so as to increase the ease with which the lock/brake can be disengaged. Note that once the solenoid of Kramer is driven into an end position, the solenoid is maintained in the end position until it is electrically driven to the opposite end position. Thus, the solenoid of Kramer would replace all of the functions of the Fink's manually operated release system. See column

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5, lines 12-16 of Fink which discloses that the manual release means of Fink is held in the release position until manually reset.

Finally, the applicant's amendment necessitated the new grounds of rejection. A bidirectional lifting magnet is different from a lifting magnet that is configured to release the coupling and configured to lock the coupling. A bidirectional lifting magnet is driven in two directions while a lifting magnet that is configured to release and lock the coupling does not need to be driven in two directions. In other words, locking the coupling in the closed position, as previously claimed, does not require the lifting magnet to drive the coupling as currently claimed.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of



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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is 571-272-6836. The examiner can normally be reached on Monday through Friday 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Mitchell can be reached on 571-272-7069. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gregory J. Strimbu/  
Primary Examiner, Art Unit 3634